

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NATHANIEL MORRIS, JR ,)	
)	C.A NO.:
Plaintiff,)	
)	
v.)	
)	TRIAL BY JURY DEMANDED
BAYHEALTH MEDICAL CENTER,)	
)	
Defendant.)	

COMPLAINT

1. Plaintiff, Nathaniel Morris, Jr., is an adult African American individual who resides at 107 Davis Circle, Dover, Delaware 19901.
2. Defendant, Bayhealth Medical Center, is a Delaware corporation with an address of 640 South State Street, Dover, Delaware, 19904.

JURISDICTION AND VENUE

3. This is a proceeding for declaratory and injunctive relief and monetary damages to redress the deprivation or rights secured to plaintiff by Title VII of the Civil Rights Act of 1964, as well as a common law claim brought pursuant to state law.
4. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1343(3) and 1343(4), conferring original jurisdiction upon this Court of any civil action to recover damages or to secure equitable relief under any Act of Congress providing for the protection of civil rights. The Court's pendent jurisdiction of claims arising under Delaware law is invoked pursuant to 28 U.S.C. 1367(a).
5. Venue lies in this Court pursuant to 28 U.S.C. §1391 because defendant is subject to

personal jurisdiction in this district.

FACIS

6. Plaintiff was working with Bayhealth Medical Center as a Security Officer for four years when his employment was terminated.
7. Plaintiff was given keys to everything in the Medical Center and he worked many double shifts as a Security Officer.
8. In or around the end of March 2005, Plaintiff was brought into the Office of Jeff Lewin, The Human Resources Director, by Mr. Marvin Lands, The Director of Security.
9. At that time, Plaintiff was questioned regarding an incident with his license that occurred prior to his start as a Security Officer. Plaintiff informed Mr. Lewin that the suspension of his license was for failure to pay his child support. His child support was garnished directly out of his check and had been for the past four years and that the license problem had been resolved.
10. Plaintiff was then questioned regarding another incident that occurred in Maryland, prior to his start at Bayhealth regarding a stolen rental car.
11. Plaintiff informed Mr. Lewin that the case had been dismissed against him because he did not steal the rental car. Mr. Lewin requested Plaintiff sign a form so they could investigate this incident. Plaintiff signed the form and an investigation was conducted.
12. On or about April 13, 2005, Plaintiff was again called into Mr. Lewin's Office. Mr. Lewin acknowledged that the Maryland incident was cleared as Plaintiff said, however, he then informed Plaintiff that he was seen taking a soda from the cafeteria without paying for it.

13. Mr. Lewin and Mr. Lands informed Plaintiff that they would conduct an investigation.
14. Two days later Plaintiff went on a prescheduled vacation.
15. On or about April 25, 2005, upon his return from his vacation, Plaintiff was informed that the investigation has been completed and that he was terminated.
16. The results of the investigation indicated that Defendant had one witness who claims she saw the Plaintiff take a soda, but the employer had no substantial evidence.
17. In early March 2005, at about the same time as the initial questioning, by Defendant, of the incidents that occurred prior to Plaintiff's start at Bayhealth Medical Center, a Retired Caucasian Police Officer contacted Plaintiff's supervisor, Dave Freeman regarding employment. At the time there was no open positions.
18. After Plaintiff was terminated, the same Retired Police Officer was hired and put into Plaintiff's position.

COUNT I.

VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

19. The averments of paragraphs 1 through 18 are incorporated by reference as if fully set forth at length.
20. Defendant's actions constitute a violation of Title VII of the Civil Rights Act of 1964.

WHEREFORE, Plaintiff requests that the Court enter judgment in his favor and against Defendant awarding Plaintiff damages arising as a result of the violation, including punitive damages, attorney's fees and costs and such other relief as the Court deems just and necessary under the circumstances.

COUNT II.

BREACH OF THE STANDARD OF GOOD FAITH AND FAIR DEALING

21. Paragraphs 1 through 20 are incorporated herein by reference.
22. Defendants discharge or termination of Mr. Morris was a breach of the public policy of the State of Delaware and was therefore, a breach of the covenant of good faith and fair dealing implied in his employment contract.
23. As a direct and proximate result of the breach of the covenant of good faith and fair dealing implied in its contract with Mr. Morris by defendant, Mr. Morris has suffered, is presently suffering and will continue to suffer lost income and benefits, lost future wages, loss of professional stature, emotional pain and suffering, humiliation, inconvenience, mental anguish, loss of enjoyment of life and other pecuniary and non-pecuniary losses.
24. Defendants wrongful misconduct was malicious, reckless, willful and wanton.
- Defendants are therefore liable to Mr. Morris for punitive damages

WHEREFORE, Plaintiff requests that the Court enter judgment in his favor and against Defendant awarding Plaintiff damages arising as a result of the breach, including punitive damages, attorneys fees and costs and such other relief as the Court deems just and necessary under the circumstances.

COUNT III.

BREACH OF THE DELAWARE DISCRIMINATION IN EMPLOYMENT ACT

25. Paragraphs 1 through 24 are incorporated herein by reference.
26. Defendants actions constitute a violation of the Delaware Discrimination of Employment Act.

WHEREFORE, Plaintiff requests that the Court enter judgment in his favor and against Defendant awarding Plaintiff damages arising as a result of Defendant's conduct, including punitive damages, attorneys fees and costs and such other relief as the Court deems just and necessary under the circumstances.

NOLTE & ASSOCIATES

A handwritten signature in black ink, appearing to read 'R. Stokes Nolte', written over a horizontal line.

R. STOKES NOLTE, ESQUIRE

ID No. 2301

Nolte & Associates

1010 N. Bancroft parkway Suite 21

Wilmington, DE 19805

(302) 777-1700

Attorney for Plaintiff

JS 44 (Rev 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

Nathaniel Morris Jr

(b) County of Residence of First Listed Plaintiff Kent
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) R. Stokes Volk
1010 W. Bancroft Hwy Suite 21
Wilmington, DE 19805

DEFENDANTS

Bayhealth Medical Center

County of Residence of First Listed Defendant Kent
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII of Civil Rights Act of 1964

Brief description of cause:

Wrongful termination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5-3-06

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLICANT IFP _____ JUDGE _____ MAG JUDGE _____

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 06-290

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 1 COPIES OF AO FORM 85.

5-3-06
(Date forms issued)

[Signature]
(Signature of Party or their Representative)

Stokes Notte
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action